IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

Cr. Appeal No.149 of 2001.
Dated of Decision: December 28th, 2007.

State of H.P. …… Appellant.

Versus

Kehar Singh and another. ……. Respondents.

Coram

The Hon'ble Mr. Justice Surinder Singh, Judge.

Whether approved for reporting? No.

For the Appellant : Mr. D.S. Nainta, Dy. Advocate General.

For the Respondents : Mr. Ajay Sharma, Advocate.

Surinder Singh,J. (oral) :

Heard and gone through the record.

The complainant and the respondents belong to one family. As a matter of fact, respondent No.1 is the brother-in-law and respondent No.2 is the mother-in-law of Smt. Sandla Devi (complainant) wife of Sukhdev Singh. It was alleged by her that on 19.8.1995, respondent No.1 came armed with a sickle, gave her beatings and threatened her with dire consequences. She could be saved with the intervention of some persons on the spot, but their names were not mentioned. On the same day, she is stated to have gone to the Pradhan with her complaint Ex.PW2/B, who recorded his certificate and directed her to report the matter to the police. On 21.8.1995, vide application Ex.PW2/A, she complained to

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Whether reporters of local papers may be allowed to see the judgment? Yes.

the police, on the basis of which Rapat Ex.PW5/A was registered and she was got medically examined. The Doctor was admittedly her near relative and he noticed three injuries on her person vide MLC Ex.PW1/A. Thereafter, the FIR Ex.PW7/C was formally registered under Sections 323,324,504 and 506 of the Indian Penal Code.

During the course of the investigation, the police prepared the site plan Ex.PW7/A, recorded the statements of the witnesses and presented the challan for the trial of the respondents. Finding a prima-facie case under Sections 324,323,504 and 506 read with Section 34 of the Indian Penal Code, the respondents were charge-sheeted, to which they pleaded not guilty and claimed trial. At the end of trial, the respondents were acquitted and their acquittal has been assailed in this appeal.

It is pertinent to note that PW-3 Sumna Devi nourishes grudge against respondents, as admitted by her in her cross-examination and clearly stated that their relations are not cordial.

Joginder Singh (PW6) an alleged eye witness has not supported the case of the prosecution.

According to PW-7 Mohan Lal, A.S.I., it did not come into the statement of any of the witnesses that the respondent No.1 was having a sickle in his hand and further that he had inflicted any injury to the complaint, as alleged. It is also pertinent to note that the initial complaint was lodged against respondent No.1 only. It is not understood as to how

respondent No.2 was arrayed as the accused in this case. Further, according to the complainant (PW2), the name of respondent No.2 was included by her as an accused when the police had visited the spot.

Thus, on the close scrutiny of the evidence of the complainant and her witnesses, I do not find it reliable to sustain the conviction of the respondents. Therefore, the finding of the acquittal recorded by the learned trial court is sustainable from the record. Thus no interference is required, accordingly, the appeal is dismissed.

The respondents are discharged of their bail bonds entered upon by them at any time during the proceedings of the case.

Send down the records.

December 28th, 2007. **(Surinder Singh)**
(Pds) **Judge.**